



Dzerzhyn District Court of Kharkiv

RESOLVED

Case No. 638/5519/23

Proceedings No. 1-kp/638/1372/23

Ukhvalaimenem of Ukraine

On August 4, 2023, the Dzerzhinsky District Court of Kharkiv, as part of:

the presiding judge with the participation of: the secretary of the court session, the prosecutor, the accused's defender, the translator - PERSON_1 , -PERSON_2 , -PERSON_3 , -Lira Lopez PERSON_4 , -PERSON_5 , -PERSON_6 ,

having considered in a court session in the courtroom in Kharkiv the petition of the prosecutor of the Kharkiv Regional Prosecutor's Office PERSON_3 to apply for bail to the state revenue and choose a preventive measure in the form of detention in criminal proceedings, entered in the Unified Register of Pretrial Investigations under No.

22022220000000618 dated April 12, 2022 , regarding the accused

PERSON_7 , INFORMATION_1 , a citizen of the Republic of Chile and the Federal Republic of the United States of America, a native of Los Angeles, California, United States of America, married, officially unemployed, who has two children, actually lives at the address: ADDRESS_1 , not previously convicted,

in the commission of criminal offenses provided for in Part 2 of Art. 436-2, Part 3 of Art. 436-2 of the Criminal Code of Ukraine,-

INSTALLED:

Since June 7, 2023, in the proceedings of the judge of the Dzerzhinsky District Court of Kharkiv PERSON_1, there is an indictment in criminal proceedings entered in the Unified Register of Pretrial Investigations under No. 22022220000000618 dated April 12, 2022 against PERSON_7, who is accused of committing criminal offenses provided for in Part 2 Art. 436-2, Part 3 of Art. 436-2 of the Criminal Code of Ukraine.

On August 2, 2023, at a court hearing, the prosecutor filed a motion to apply for bail to the state revenue in the amount of UAH 402,600.00. and choosing a preventive measure in the form of detention for a period of 60 days, without determining bail.

The petition is based on the fact that PERSON_7 is accused of committing a criminal offense - a crime provided for in Part 2 of Article 436-2 of the Criminal Code of Ukraine, that is, in the production and distribution of materials containing justification, recognition as legitimate, denial of the armed aggression of the Russian Federation against Ukraine,

launched in 2014, as well as the justification, recognition as legitimate of the temporary occupation of part of the territory of Ukraine and in the commission of a criminal offense - the crime provided for in Part 3 of Article 436-2 of the Criminal Code of Ukraine, i.e. in the production and distribution of materials containing the justification, recognition as legitimate, denial of the armed aggression of the Russian Federation against Ukraine, which began in 2014, including by presenting the armed aggression of the Russian Federation against Ukraine as an internal civil conflict, justification, recognition of the lawful temporary occupation of a part of the territory of Ukraine, as well as justification, recognition of the lawful temporary occupation of a part of the territory of Ukraine, glorification of persons who carried out the armed aggression of the Russian Federation against Ukraine, which began in 2014, and committed repeatedly.

By the decision of the investigating judge of the Kyiv District Court. Kharkiv dated May 1, 2023, PERSON_7 was placed in custody until June 29, 2023, with a bail amount of UAH 402,600.00, imposed for a period of two months with the following obligations: to appear before the investigator, the prosecutor, the court at the first summons; not to leave the city of Kharkiv without the permission of the investigator, prosecutor or court; notify the investigator, prosecutor or court about a change of residence at the address: ADDRESS_1; carry an electronic device with a contra.

The ruling of the Kharkiv Court of Appeal dated May 30, 2023 left unchanged the ruling of the investigative judge of the Kyiv District Court of Kharkiv dated May 1, 2023.

The decision of the Dzerzhinsky District Court of Kharkiv dated June 26, 2023 extended the preventive measure in the form of detention, chosen in relation to the accused PERSON_7, until August 24, 2023, with the possibility of applying an alternative preventive measure in the form of bail, in the amount specified in the decision of the investigating judge of the Kyiv District Court of Kharkiv from May 1, 2023, reviewed by the Kharkiv Court of Appeal, namely in the amount of UAH 402,600.00. Upon payment of a specified amount of bail, PERSON_7 shall be released from custody and assigned the following duties for a period of two months: to appear before the investigator, the prosecutor, the court at the first summons; not to leave the city of Kharkiv without the permission of the investigator, prosecutor or court; notify the investigator, prosecutor or the court of a change of residence at the following address: ADDRESS_1 ; carry an electronic device backwards; to deposit with the relevant state authorities a passport for traveling abroad or other documents that grant the right to travel abroad.

The accused posted bail, in connection with which he was released from custody on July 6, 2023.

When the preventive measure is applied, it is explained to the accused that if he, having been duly notified, does not appear when summoned to the investigator, prosecutor, or court, or leaves the city of Kharkiv without the permission of the investigator, prosecutor, or court, the bail is turned over to the income state

According to the information of the Office of the Security Service of Ukraine in the Kharkiv region, Lira Lopez Gonzalo Angel Quintilio on a BMW motorcycle, number plate NUMBER_1, voluntarily headed to the state border of Ukraine with Hungary. Being in the territory of Zakarpattia region in the period from July 31, 2023 to August 1, 2023, PERSON_7 made an unsuccessful attempt to cross the state border at the Chop checkpoint (Tysa).

Taking into account the presence of the risk of hiding the accused from the pre-trial investigation authorities and the court, the continuation of the criminal offense in which he is accused or the destruction of evidence of significant importance, the real possibility of freely changing his place of residence, as well as the fact that a preliminary preventive measure in the form of bail has been applied in the amount of UAH 402,600.00. unable to ensure that the accused fulfills the procedural obligations assigned to him to appear upon summons to the investigator, prosecutor or court, to apply milder preventive measures to him than detention, namely personal commitment, personal surety, bail or house arrest, will not provide an opportunity to exercise effective control over his behavior, to ensure the fulfillment of the duties assigned to him by the court,

Therefore, there are well-founded grounds for applying to the state revenue for the deposit made by the accused and for the latter to choose a preventive measure in the form of detention.

The prosecutor supported the demands of the petition and asked to be satisfied. During the review of the petition, he provided additional explanations regarding the content and meaning of the documents attached to the petition. He noted that only a preventive measure in the form of detention can ensure proper procedural behavior of the accused.

The defender and the accused objected to the granting of the motion, and asked to refuse its granting.

The accused gave an explanation, according to which he confirmed the fact of violation of his duty not to leave the city of Kharkiv without the appropriate permission of the court. He noted that he voluntarily went to the state border of Ukraine. While on the territory of Zakarpattia Oblast in the period from July 31, 2023 to August 1, 2023, he made an unsuccessful attempt to cross the state border at the Chop checkpoint. His breach of duty is justified by the fact that during his stay in the pre-trial detention center, persons previously unknown to him committed violent acts against him, demanded from him the transfer of a sum of money in the amount of 70,000.00 US dollars to the provided bank accounts. The accused feared for his life, considering that he transferred this amount of money to the bank account provided to him. However, these funds were not transferred for technical reasons, that is, the funds transfer operation was not completed by the financial institution. Considering the above, after his release from custody, the accused feared for his life and decided to leave the city of Kharkiv. The accused also justified the violation of the assigned duties by the fault of the presiding judge, who, in order to comply with the decision, did not collect from him the documents that give him the right to travel abroad, and did not ensure the installation of electronic means of control. Due to the inactivity of the presiding judge, the accused violated the duties assigned to him. Such inactivity of the court prompted him to violate his duties, he decided that the court wanted the accused to leave the country. He also noted that he was actually detained by SBU employees on August 2, 2023. Considering the above, after his release from custody, the accused feared for his life and decided to leave the city of Kharkiv. The accused also justified the violation of the assigned duties by the fault of the presiding judge, who, in order to comply with the decision, did not collect from him the documents that give him the right to travel abroad, and did not ensure the installation of electronic means of control. Due to the inactivity of the presiding judge, the accused violated the duties assigned to him. Such inactivity of the court prompted him to violate his duties, he decided that the court wanted the accused to leave the country. He also noted that he was actually detained by SBU employees on August 2,

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In response to the court's clarifying question, the accused stated that the money deposited as collateral was his personal money. He did not inform the law enforcement agencies, the court, his lawyer, and the administration of the pretrial detention center about the illegal violent acts committed against him, because he believes that SBU employees were involved in their commission, and the court in the country is a corrupt body. The accused also confirmed that 02 h. 00 min. On August 2, 2023, he was in the village of Nelipino, Svalyavsky district, Zakarpattia region.

The defender referred to the lack of legal grounds for choosing a preventive measure, taking into account the incorrect qualification of the indicted criminal offense, the illegal detention of the accused without proper legal grounds, before the court issued a decision on granting permission for detention, the illegality of operational actions by SBU employees. The prosecutor did not provide evidence to confirm the circumstances that only preventive measures in the form of detention can ensure proper procedural behavior of the accused.

After hearing the explanations of the participants in the criminal proceedings, examining the petition and the materials attached to it, the court came to the conclusion that the petition should be granted on the following grounds.

By the decision of the investigative judge of the Kyiv District Court. Kharkiv dated May 1, 2023, PERSON_7 was ordered to be detained until June 29, 2023, with a bail amount of UAH

402,600.00. not to leave the city of Kharkiv without the permission of the investigator, prosecutor or court; notify the investigator, prosecutor or court about a change of residence at the address: ADDRESS_1; carry an electronic device with a contra.

The ruling of the Kharkiv Court of Appeal dated May 30, 2023 left unchanged the ruling of the investigative judge of the Kyiv District Court of Kharkiv dated May 1, 2023.

By the decision of the Dzerzhinsky District Court of Kharkiv dated June 26, 2023, the preventive measure in the form of detention, chosen in relation to the accused PERSON_7, was extended until August 24, 2023, with the possibility of applying an alternative preventive measure in the form of bail, in the amount determined in the decision of the investigating judge of the Kyiv District Court of Kharkiv dated May 1, 2023. 023 of the year , revised by the Kharkiv Court of Appeal, namely in the amount of UAH 402,600.00. Upon payment of a specified amount of bail, PERSON_7 shall be released from custody and assigned the following duties for a period of two months: to appear before the investigator, the prosecutor, the court at the first summons; not to leave the city of Kharkiv without the permission of the investigator, prosecutor or court; notify the investigator, prosecutor or the court of a change of residence at the following address: ADDRESS_1 ; carry an electronic device backwards; to deposit with the relevant state authorities a passport for traveling abroad or other documents that grant the right to travel abroad.

By decision of the Dzerzhinsky District Court of Kharkiv dated June 26, 2023, the criminal proceedings against PERSON_7 are scheduled for trial in an open court session in the premises of the Dzerzhinsky District Court of Kharkiv on August 2, 2023 at 11:00 a.m. 30 min.

The content of both court decisions from June 26, 2023 was announced by the court at the court session, during the announcement the accused was present at the court session, the content of the decisions was translated to him by a translator.

In view of the above, the accused was fully informed about the duties assigned to him in the event that he posted bail and was duly notified of the date of the court hearing scheduled for August 2, 2023 at 11 a.m. 30 min.

At the court session scheduled for August 2, 2023, the accused PERSON_7 did not arrive, the court did not inform about the reasons for his non-appearance, he did not provide any evidence to confirm the validity of the reason for his non-appearance. He did not apply to the court, the prosecutor, or the investigator for permission to leave Kharkiv.

According to the letter of the Kharkiv Pre-trial Detention Center dated July 7, 2023 No. 12/12-7969/Bo Lira Lopez Gonzalo Angel Quintilio was released on July 6, 2023 upon payment of bail in the amount of UAH 402,600.00.

According to the letter of the Office of the Security Service of Ukraine in the Kharkiv region dated August 1, 2023 No. 70/1-7786 regarding the violation of the conditions of a preventive measure, Lira Lopez Gonzalo Angel Quintilio on a BMW motorcycle, license plate number NUMBER_1, arbitrarily headed to the state border of Ukraine with Hungary. While on the territory of the Transcarpathian region in the period from July 31, 2023 to August 1, 2023, the above-mentioned person made an unsuccessful attempt to cross the state border at the Chop checkpoint (Tysa).

On August 3, 2023, the prosecutor of the law enforcement department of the regional security body of the Kharkiv Regional Prosecutor's Office applied to the Dzerzhinsky District Court of Kharkiv PERSON_3 with a request for permission to detain PERSON_7 in order to participate in the consideration of a request for a preventive measure in the form of detention in relation to PERSON_7 .

By the decision of the Dzerzhinsky District Court of Kharkiv dated August 3, 2023, the prosecutor's request for permission to detain for the purpose of participating in the consideration of the request for the application of a preventive measure in the form of detention was granted. Permission was granted to detain the accused PERSON_7 to participate in the consideration of the petition for the application of a preventive measure in the form of detention.

As a result of the implementation of the decision of the Dzerzhinsky district court in Kharkiv region by the employees of the Security Service of Kharkiv Oblast, Kharkiv, dated August 3, 2023, it was allowed to detain a person with a pretext for participating in the consideration of a request for the application of a preventive measure in the form of detention. August 4, 2023 at 12 o'clock 20 min. at the address: Kharkiv, ave. Sciences, building 9-D.

The court is critical of the arguments of the accused and the defense attorney regarding the actual detention of the accused on August 2, 2023 without a court order, as these arguments are not supported by any evidence.

Taking into account the above, the court came to the conclusion that the accused was actually detained on August 4, 2023 at 12:00 p.m. 00 min.

During the consideration of this petition, the court did not establish the seriousness of the reasons for the accused's non-arrival at the court session scheduled for August 2, 2023, and the seriousness of the reasons for violating the obligations imposed on him regarding the prohibition to leave the city of Kharkiv without the permission of the court, the prosecutor or the investigator.

Confirmation by the accused of the fact of his stay at 02:00. 00 min. August 2, 2023 in the village of Nelipino of Svalyavsky district of Zakarpattia region, when according to his words law enforcement officials visited him, also testifies to the defendant's lack of intention to attend the court session scheduled for August 2, 2023, given the distance of the defendant's residence from the city of Kharkiv.

According to the provisions of clause 1, part 7, Art. 42 of the Criminal Procedure Code of Ukraine, the accused is obliged to appear upon summons to the investigator, prosecutor, investigating judge, court, and in case of impossibility to arrive upon summons within the appointed time, to notify the specified persons in advance.

The list of valid reasons for non-arrival of a person on call is contained in the provisions of Part 1 of Art. 138 of the CPC of Ukraine.

Yes, in accordance with clauses 3, 5, part 1 of Art. 138 of the Criminal Procedure Code of Ukraine, force majeure circumstances (epidemics, military events, natural disasters or other similar circumstances) are important reasons for a person's non-arrival when called upon; serious illness or stay in a health care institution in connection with treatment or pregnancy, provided that it is impossible to temporarily leave this institution.

At the same time, it should be noted that only the reason for non-arrival of a person on summons, which objectively makes it impossible to arrive on summons, should be considered valid, that is, it should be proved that this circumstance led to the impossibility of the accused to fulfill his duty.

At the same time, the defense did not provide evidence that would properly confirm the existence of the circumstances provided for by law.

The court critically evaluates the explanations provided by the accused regarding the existence of a risk of any persons depriving him of his life, committing a criminal offense against him. These arguments of the accused are not supported by any factual data, he did not apply to the court or law enforcement agencies in accordance with the procedure established by law with relevant statements.

The court explains to the accused and the defender that they are not deprived of the right to apply to the authorized bodies in accordance with the procedure established by law with relevant complaints and statements about the actions of law enforcement officers, etc.

Also, the accused and the defender are not deprived of the opportunity to apply to the court with a written statement regarding the protection of human rights, which will be considered by the court in accordance with Art. 206 of the CPC of Ukraine.

No valid reasons have been given as a basis for preventing the accused from attending the court session scheduled for August 2, 2023. In addition, no evidence of the accused's appeal to the court or the prosecutor with a request for permission to travel outside the city of Kharkiv was provided.

Therefore, during the consideration of the motion, the defense did not provide evidence of the existence of reasonable reasons for the accused's non-appearance at the court session. 138 of the Criminal Code of Ukraine are respected, therefore the court came to the conclusion that the accused violated the procedural obligation provided for in Part 7 of Art. 42 of the Criminal Procedure Code of Ukraine, namely - to appear on summons to the investigator, prosecutor, court.

According to Part 8 of Art. 182 of the Criminal Procedure Code of Ukraine, in the event that the accused, having been duly notified, did not appear when summoned to the court without valid reasons, the bail is transferred to the state income and credited to the special fund of the State Budget of Ukraine.

In view of the above, the court considers the arguments presented in the prosecutor's petition to be justified, regarding the existence of grounds for turning the deposit made by the accused into state revenue in the amount of UAH 402,600.00. and enrollment in the special fund of the State Budget of Ukraine.

Measures to ensure the criminal proceedings are applied in order to achieve the effectiveness of these proceedings, and the purpose of applying a preventive measure is to ensure that the accused fulfills the procedural duties assigned to him (part 1 of article 131, part 1 of article 177 of the Criminal Procedure Code of Ukraine).

The purpose of the above-mentioned norm (Part 8, Article 182 of the Criminal Procedure Code of Ukraine) is to prevent the accused from violating the duties assigned to him by applying the measure of criminal procedural responsibility for such a violation.

Although the provisions of Part 8 Art. 182 of the Criminal Procedure Code of Ukraine do not provide for the need to establish the justification of the appropriate degree of interference with the rights and freedoms of a person in connection with the application of bail to state income, however, when deciding the issue of application of bail to state income, the court is guided by the provisions of Clause 2, Part 3, Art. 132 of the Criminal Code of Ukraine, which indicates the need to comply with the requirement of proportional intervention in any case of application of measures to ensure criminal proceedings.

The court takes into account that the application of bail to the state revenue is provided for by the Criminal Procedural Code of Ukraine, the possibility and grounds for applying such a measure of criminal procedural liability were clear, understandable, defined by the provisions of the Criminal Procedural Code of Ukraine, the obligation to appear in court upon summons and not to leave the city without the permission of the court, the prosecutor, the investigator, the accused did not comply without good reasons, in connection with which the court considers that the application of bail in full is a commensurate interference with the accused's property rights and the needs of the trial.

Simultaneously with the need to make a decision on the application of bail to the state revenue, the prosecutor asks to choose a preventive measure in the form of detention.

According to part 10 of Art. 182 of the Criminal Procedure Code of Ukraine, in the case of applying for bail to the state revenue, the court decides on the application of a preventive measure to the accused in the form of a larger bail or other preventive measure.

According to Part 1, Art. 2. 177 of the Criminal Procedure Code of Ukraine, the basis for the application of a preventive measure is the presence of a well-founded suspicion that a person has committed a criminal offense, as well as the presence of risks that give the court sufficient grounds to believe that the accused may carry out the following actions: hide from the authorities of the pre-trial investigation and/or the court; destroy, hide or distort any of the things or documents that are essential for establishing the circumstances of a criminal offense; illegally influence the victim, witness, other suspect, accused, expert, specialist in the same criminal proceedings; obstruct criminal proceedings in other ways; commit another criminal offense or continue the criminal offense of which he is accused.

According to part 1 of Art. 183 of the Criminal Procedure Code of Ukraine detention is an exclusive preventive measure, which is applied only if the prosecutor proves that none of the milder preventive measures will be able to prevent the risks provided for in Article 177 of this Code.

According to Clause 4, Part 2 of this article, a preventive measure in the form of detention cannot be applied, except to a previously unconvicted person who is suspected or accused of committing a crime, for which the law provides for a punishment of imprisonment for a term exceeding five years

Therefore, during the consideration of the petition for the selection of a preventive measure in accordance with Art. 193 of the Criminal Procedure Code of Ukraine, the court is obliged to establish whether the evidence provided by the parties to the criminal proceedings proves the circumstances that testify to: the existence of a well-founded suspicion of the commission of a criminal offense; the presence of sufficient grounds to believe that there is at least one of the risks provided for in Article 177 of this Code, and indicated by the investigator, prosecutor.

The provisions of the criminal procedural legislation do not reveal the concept of "reasonableness of suspicion", therefore, in assessing this issue, the court is guided by the practice of the European Court of Human Rights, which, according to Hon. 17 of the Law of Ukraine "On the Execution of Decisions and Application of Practice of the European Court of Human Rights" is the source of law.

According to the established practice of the ECtHR, the definition of "reasonable suspicion" is given, in particular, in the decision "Fox, Campbell and Hartley v. The United Kingdom", according to which "...the existence of reasonable suspicion presupposes the presence of facts or information that can convince an objective observer that the person in question may have committed an offence. However, what exactly can be considered "justified" will depend on all the circumstances of the case" [15, § 32]. This formulation of the ECtHR was also confirmed in such decisions as "Nechiporuk and Yonkalo v. Ukraine", "Erdagöz v. Turkey", "Labita v. Italy", "İlgar Mammadov v. Azerbaijan" and supplemented with the indication that "the facts that give rise to suspicion should not be of the same level as those that justify the conviction of a person" [16, §§ 34, 36], and likewise "indictment" [17, § 184].

To confirm the possible involvement of the accused in the commission of the criminal offense charged against him and choosing a preventive measure in the form of detention, the investigating judge at the stage of the pre-trial investigation and the court of appeals during the review of the decision of the investigating judge established the existence of a well-founded suspicion that the accused had committed the criminal offenses charged against him.

During the consideration of this motion, the court, without resolving the issue of proof of guilt and final qualification of the accused, concluded that there is a well-founded suspicion that the latter committed the criminal offense charged against him, under the circumstances set forth in the indictment, to the extent to justify the use of measures to ensure criminal proceedings .

At the same time, the court notes that at this stage of the criminal proceedings, it is not allowed to resolve those issues that must be resolved by the court during the substantive hearing, the court, based on the assessment of the totality of the received facts and circumstances, determines only the probable involvement of the accused in the criminal offenses charged against him.

Since the accused has already been charged, which the court is obliged to consider, applying, in particular, such principles of criminal proceedings as: the rule of law, legality, presumption of innocence and ensuring the proof of guilt, adversary parties and discretion, the court believes that at this stage the court is not competent to make decisions related to establishing the provenance (unprovenness) of the charge against the accused, because such issues are resolved only in the verdict.

The basis for the application of a preventive measure is the presence, in particular, of risks that give the investigating judge, the court, sufficient grounds to believe that the accused may carry out the actions provided for in part 1 of article 177 of the CPC (part 2 of article 177 of the CPC).

Risks that give the court sufficient grounds to believe that the accused may attempt to oppose criminal proceedings in the forms provided for in part 1 of Article 177 of the Criminal Code of the Criminal Code should be considered to exist provided that a reasonable

probability of the possibility of the accused carrying out the specified actions is established. At the same time, the Criminal Procedure Code of Ukraine does not require evidence that the accused will necessarily (beyond any doubt) perform the relevant actions, but requires evidence that he has a real opportunity to perform them in a specific criminal proceeding in the future.

In justifying the motion to choose a preventive measure for the accused, the prosecutor referred to the existence of risks that he may: hide from the bodies of the pre-trial investigation and/or the court; destroy, hide or distort any of the things or documents that are essential for establishing the circumstances of a criminal offense; commit another criminal offense or continue the criminal offense of which he is accused.

When determining the likelihood of the accused hiding from the pre-trial investigation authorities and the court, the court takes into account the severity of the punishment that threatens the latter in the event that he is found guilty of committing the criminal offenses charged against him, one of which is a serious crime.

At the same time, the court takes into account that the accused has a passport of a US citizen and a passport of a citizen of the Republic of Chile, which increases the person's ability to hide abroad, in different countries of the world, in order to evade criminal responsibility.

Lira PERSON_8 is married, but is in the process of divorce, has two minor children from 2014 and 2015, is officially unemployed, is not registered with a psychiatrist or narcologist, has no disabilities, does not have any movable or immovable property in the territory of Ukraine, lives in the city of Kharkiv in an apartment that belongs to him with the right of use, he has been living in Ukraine since 2017, the children are citizens of Ukraine, they live with their mother in the city of Uzhhorod.

As established during the consideration of the petition, the accused voluntarily went to the state border of Ukraine with Hungary. While on the territory of the Transcarpathian region in the period from July 31, 2023 to August 1, 2023, the accused made an unsuccessful attempt to cross the state border at the Chop checkpoint (Tysa).

The fact that the accused has two citizenships of other states, the absence of real estate on the territory of Ukraine, the absence of an official source of income, being in the process of divorcing his wife indicates the absence of stable social ties of the accused with his place of residence in Ukraine.

The fact that the accused made unsuccessful attempts to cross the border indicates the risk of hiding the accused from the court and pre-trial investigation authorities.

The specified circumstances in combination with each other and with other circumstances of this criminal proceeding give reason to reasonably assume the probable possibility of hiding the accused from the bodies of the pre-trial investigation and the court.

The possibility is not excluded that the accused, in order to avoid possible criminal liability, without being deprived of the opportunity to move freely and without being physically limited, may hide from the authorities of the pre-trial investigation and the court, continue the criminal offense in which he is accused or commit another criminal offense, to destroy, hide or distort any of the things or documents that are essential for establishing the circumstances of a criminal offense.

Under such circumstances, the court considers the prosecutor's statement in the motion regarding the existence of the above-mentioned risks to be well-founded.

Corresponding risks that give the court sufficient grounds to believe that the accused may attempt to oppose criminal proceedings in the forms provided for in Part 1 of Art. 177 of the Criminal Procedure Code, should be considered available on the condition of establishing a reasonable probable possibility of the accused carrying out the specified actions. At the same time, the Criminal Procedure Code does not require evidence that the accused will necessarily (beyond any doubt) perform the relevant actions, but requires evidence that he has a real opportunity to perform them in a specific criminal proceeding in the future.

Taking into account the gravity of the criminal offense, the commission of which is incriminated against the accused, the proof of the existence of reasonable suspicion, as well as the presence of risks provided for in 1, 2, 5 Art. 177 of the Criminal Procedure Code of Ukraine, the court considers the proven and justified necessity of choosing a preventive measure in the form of detention for the accused, as well as the fact that at this stage of the criminal proceedings, the needs of the trial justify such interference with the rights and interests of the accused in order to ensure the criminal proceedings.

When considering the request for the selection of a preventive measure in the form of detention, the court considers it necessary not to determine the amount of bail, taking into account the ineffectiveness of the preventive measure in the form of bail applied to the accused.

According to the results of the analyzed criminal proceedings as a whole, the court came to the conclusion that preventive measures in the form of bail are not capable of ensuring that the accused fulfills the procedural duties assigned to him.

Taking into account all the circumstances of this criminal proceeding, the prosecutor's proof of the existence of the risks provided for in clauses 1, 2, 5, part 1 of Art. 177 of the Criminal Procedure Code of Ukraine, the accused's failure to comply with the conditions of the preventive measure previously applied to him, his attempts to cross the border and leave the country, the court came to the conclusion that the request for the selection of a preventive measure in the form of detention of the accused without the determination of bail should be granted.

Guided by Articles 2, 7, 131-132, 177, 193, 196, 281, 372, 376 of the Criminal Procedure Code of Ukraine, the court,

RESOLVED:

The request of the prosecutor of the Kharkiv Regional Prosecutor's Office PERSON_3 to apply for bail to the state revenue and to choose a preventive measure in the form of detention in relation to the accused in relation to the accused PERSON_7, INFORMATION_1, to be satisfied.

Transfer to the state income and credit the deposit in the amount of UAH 402,600.00 to the special fund of the State Budget of Ukraine. (four hundred two thousand six hundred hryvnias zero kopecks), made by the accused on the basis of the decision of the investigating judge of the Kyiv District Court of Kharkiv dated May 1, 2023, reviewed by the Kharkiv Court of Appeal in case No. 953/2692/23.

Choose the accused PERSON_7, INFORMATION_1, a preventive measure in the form of detention until October 2, 2023 without determining the amount of bail.

Accused PERSON_7, INFORMATION_1, to be taken into custody in the courtroom.

The term of detention shall be counted from the day of his actual detention.

The decision can be appealed in the appeal procedure by submitting an appeal directly to the court of appeal within five days from the day of its announcement. For PERSON_7, the deadline for filing an appeal is calculated from the moment a copy of this decision is delivered to him.

The resolution is subject to immediate execution after its announcement.

Judge PERSON_1

Date of decision 08/03/2023

Published 08/07/2023

Court register for the case — 638/5519/23

Resolution dated 04.08.2023	Resolution dated August 2, 2023	Resolution dated August 1, 2023	Resolution dated 25.06.2023	Resolution dated 25.06.2023	Res dat: 07.0
Criminal	Criminal	Criminal	Criminal	Criminal	Crir
Dzerzhyn	Dzerzhyn	Dzerzhyn	Dzerzhyn	Dzerzhyn	Dze
District	District	District	District	District	Dist
Court of	Court of	Court of	Court of	Court of	Cou
Kharkiv	Kharkiv	Kharkiv	Kharkiv	Kharkiv	Kha
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